

### **REMARKS/ARGUMENTS**

Claims 1, 4-6, 8-11, and 13-36 are pending and at issue, claims 2, 3, 7, and 12 having been canceled in this amendment.

As an initial matter, it is noted that citation number C1 on the PTO Form-1449 mailed on July 9, 2004, (i.e., the Tupperware Forget Me Not) has not been initialed as having been considered. The undersigned respectfully requests that the examiner forward a copy of the July 9, 2004 PTO Form-1449 with an indication that citation number C1 has been considered. It is also noted that the Goldman reference (US 5,833,056) is not listed on the PTO Form-892. The undersigned respectfully requests that the examiner forward a PTO Form-892 listing the Goldman reference.

The undersigned thanks the examiner for indicating that claims 15, 16, 29, 30, 32-34, and 36 would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. Accordingly, claims 15 and 29 have been rewritten in independent form including all of the limitations of claim 1, thereby placing claims 15 and 29, and claims 16 and 30 dependent thereon, respectively, in position for immediate allowance, notice of which is respectfully requested.

The undersigned respectfully traverses the rejections of claims 1, 4, 8, 13, 14, 31, and 35 as anticipated by Jasmagy. Further, the undersigned respectfully traverses the rejections 5, 6, and 9-11 as obvious over Jasmagy and the rejections of claims 17-28 as obvious over Jasmagy in view of Goldman.

Claim 1, and claims 8-11 dependent directly thereon, recite a suspension device comprising a hanging member for placement over a shelf, a backing member extending transversely from the hanging member for hanging downwardly over an edge of the shelf when the hanging member is placed over the shelf, and a suspension member extending from the backing member for receiving a container. The container may be inserted into the suspension member in a substantially non-horizontal position when the suspension device is hung from the shelf with the hanging member placed over the shelf and the backing member hanging downwardly over the edge of the shelf.

Claim 4 has been rewritten in independent form to include all of the recitations of original claims 1 and 2. Claim 4, and claims 5 and 6 dependent directly thereon, as amended, recite a suspension device comprising a hanging member, a backing member extending transversely from the hanging member, and a suspension member extending from the backing member. The suspension member includes a main member, at least one support member extending from the main member, and at least one wall member extending from the support member. A container is inserted into the suspension member, and the hanging member is suspended from a shelf. The support member(s) includes a first interference fit with a container that is capable of resisting relative movement of the suspension device and the container in a first direction.

Claim 13 has been rewritten in independent form including all the recitations of original claims 1, 2, and 12. Claim 13, and claim 14 dependent thereon, as amended, recite a suspension device comprising a hanging member, a backing member extending transversely from the hanging member, and a suspension member extending from the backing member. The suspension member includes a main member, at least one support member extending from the main member, and at least one wall member extending from the support member. A container having a lid disposed thereon is inserted into the suspension member and the hanging member is suspended from a shelf. The lid is disposed in a cavity formed by the main member, the support member(s) and the wall member(s).

Claim 17, and claims 18-28 dependent directly or indirectly thereon, recite a combination including a suspension device including a hanging member, a backing member extending transversely from the hanging member, and a suspension member extending transversely from the backing member, wherein the suspension member includes a main member, at least one support member extending from the main member, and at least one wall member extending from the support member. The combination also includes a container, wherein the support member and the wall member define interference fits with the container.

Claim 31, and claims 32-36 dependent thereon, recite a method of suspending a container from a movable shelf including the steps of providing a suspension device having a hanging member, a backing member, and a suspension member and suspending the hanging member of

the suspension device over an edge of a shelf. The method further includes the step of inserting the container into the suspension device to hang the container in a non-horizontal position therefrom.

The prior art does not disclose or suggest a suspension device as recited in claims 1 and 8-11, wherein a container may be inserted into the suspension member in a substantially non-horizontal position.

Further, the prior art does not disclose or suggest a suspension device including a suspension member having a support member as recited in claims 4-6, wherein the support member includes a first interference fit with the container.

Even further, the prior art does not disclose or suggest a suspension device having a suspension member including a support member and a wall member as recited in claim 5, wherein the support member includes a first interference fit with the container, and wherein the wall member includes a second interference fit with the container.

Further still, the prior art does not disclose or suggest a suspension device as recited in claims 13 and 14, wherein the lid of a container is disposed in a cavity formed by the main member, the support member(s), and the wall members(s) of the suspension member.

In addition, the prior art does not disclose or suggest the combination of a suspension device and container as recited in claims 17-28, wherein the support member and wall member define interference fits with the container.

Also, the prior art does not disclose or suggest a method of suspending a container from a movable shelf as recited in claims 31-36, wherein the method includes the step of hanging the container in a non-horizontal position.

In fact, Jasmagy, Jr., U.S. Patent No. 4,844,400 discloses a drink container holder comprising a hanger for securing to an automobile window and a housing releasably carried by the hanger for carrying a drink container therein. The housing includes a conical sidewall having generally the same cross section as a container to be held therein and defining an open upper end. A bottom wall extends across a lower end of the sidewall. The hanger includes a plastic or pliable, non-resilient body portion extending upwardly from the housing and a resilient insertable end extending generally perpendicularly from the body portion. To use the holder, the insertable

end is inserted between a window channel and glass in an automobile door and the body portion is bent downwardly along the inner door panel, thereby effectively creating a hook from which the housing is suspended with the open end thereof positioned upwardly. A drink container may then be placed within the housing through the open end thereof, and the drink container rests on a bottom wall of the housing. The holder maintains the drink container in a substantially horizontal position in order to prevent undesired spillage of any fluids contained therein. The sidewall prevents the container from slipping sideways out of the housing.

Goldman U.S. Patent No. 5,833,056 discloses a drink container holder and containers with lids thereon. The holder includes a generally planar sheet of relatively stiff material with holes cut therethrough sized to accept a drink container. The holder may be formed with different contours to accommodate use with other products in a larger container, such as a bag. The holder maintains the containers in a substantially horizontal position when the containers are supported by a separate structure (e.g., the bag bottom) in order to prevent spillage of any fluids contained therein.

In the present application, Figures 2, 3, 7, 8, 12, 13, and 16-18 show the container hanging in a non-horizontal position (as originally recited in claim 31) such that any flowable contents contained therein would be spilled through the rim of the container if the lid were removed therefrom. An advantage of hanging the container in a non-horizontal position is that the contents of the container may be visible from the side through the bottom of the container. Because of this non-horizontal hanging position, it is also advantageous that several embodiments of the suspension device provide a cavity within the suspension member sized to receive the lid and rim of the container therein, which helps the lid to remain on the rim when the container is hung from the suspension device. A further advantage of several embodiments of the suspension device is that either or both the support member and the wall member may define an interference fit with the container, thereby preventing the container from falling out of the suspension device through either the first opening or the second opening as described at page 6 of the current specification.

Because no single piece of prior art discloses every limitation of any of the claims at issue, such claims are not anticipated thereby.

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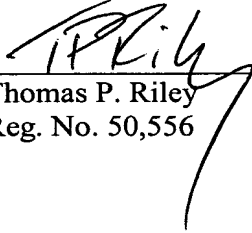
Further, because the prior art does not disclose or suggest all of the elements recited by the claims at issue, it follows that those claims are not rendered obvious thereby. To establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974).

For the foregoing reasons, reconsideration and withdrawal of the rejections of the claims at issue and allowance thereof are respectfully requested.

Respectfully submitted,

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